

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA AND	)	
DOUGLAS J. ENGLER, REVENUE OFFICER,	)	
INTERNAL REVENUE SERVICE,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	C.A. NO.
	)	
JOHN MONTGOMERY,	)	
	)	
	)	
Defendant.	)	

COMPLAINT TO ENFORCE  
INTERNAL REVENUE SUMMONS

For their Complaint, the United States of America and Douglas J. Engler, Revenue Officer, Internal Revenue Service, by their attorneys, allege as follows:

I.

This is a proceeding brought under authority of I.R.C. § 7604(a), (26 U.S.C. § 7604 (a)), to enforce judicially an Internal Revenue Summons issued pursuant to Section 7602 to enable Plaintiffs to prepare income tax returns (Forms 1040) for the Defendant, John Montgomery, for the years ending December 31, 2006, December 31, 2007, December 31, 2008, December 31, 2009, and December 31, 2010.

II.

Plaintiff Revenue Officer is authorized to issue Internal Revenue Summonses pursuant to Section 7602.

III.

The address of the Defendant, John Montgomery, hereinafter ("Defendant") 214 Woodward Drive, Exton, Pennsylvania, such address being within the jurisdiction of this Court.

IV.

Plaintiff Revenue Officer is presently conducting an investigation with respect to the determination of the outstanding income tax liabilities (Forms 1040) of the Defendant for the years ending December 31, 2006, December 31, 2007, December 31, 2008, December 31, 2009, and December 31, 2010.

V.

On June 7, 2011, a copy of a Summons was served upon the Defendant, by Plaintiff Revenue Officer, by leaving an attested copy of the Summons with the Defendant's mother at the Defendant's last and usual place of abode. The Summons directed the Defendant to appear on the 22nd day of June, 2011 at 10:00 a.m. at the office of the Internal Revenue Service, 601 S. Henderson Road, King of Prussia, Pennsylvania, to testify and produce certain documents and records necessary to prepare income tax returns (Forms 1040) for the years ending December 31, 2006,

December 31, 2007, December 31, 2008, December 31, 2009, and December 31, 2010, as is more fully set forth in the Summons. The original Summons served upon the Defendant is attached hereto and incorporated herein as Exhibit 1.

VI.

The Defendant did not appear on June 22, 2011. The Declaration of Plaintiff Revenue Officer reciting the failure to comply with the Summons is attached hereto and incorporated as Exhibit 2.

VII.

It was and continues to be essential to the determination of the outstanding income tax liabilities (Forms 1040) of the Defendant for the years ending December 31, 2006, December 31, 2007, December 31, 2008, December 31, 2009, and December 31, 2010, that the Defendant be required to testify and produce those records and documents demanded by the Summons, which are not in the possession of the Plaintiffs.

VIII.


As indicated above, the investigation is being conducted for a legitimate purpose and the information sought may be relevant to that purpose. The Plaintiffs have complied with the administrative procedures required by the Internal Revenue Code of 1986, as amended.

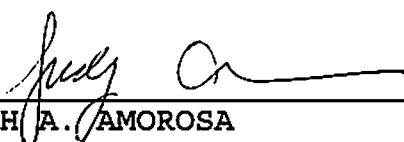
WHEREFORE, Plaintiffs respectfully pray:

1. That this Court enter an Order directing the Defendant to show cause why he should not comply with and obey the aforementioned Summons in each and every requirement thereof.
2. That the Court enter an order directing the Defendant to obey the aforementioned Summons in each and every requirement thereof and to order that he testify, produce the books, records and other information as called for by the Summons before Plaintiff Revenue Officer or any other properly designated officer of the Internal Revenue Service.
3. That the United States recover its costs in maintaining this action.
4. That the Court render such other further relief as is just and proper

Respectfully submitted,

ZANE DAVID MEMEGER  
United States Attorney

  
MARGARET L. HUTCHINSON  
Chief, Civil Division  
Assistant United States Attorney

  
\_\_\_\_\_  
JUDITH A. AMOROSA  
Assistant United States Attorneys  
615 Chestnut Street  
Philadelphia, PA 19106  
(215) 861-8869

Dated: August 29, 2012

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA AND	)	
DOUGLAS J. ENGLER, REVENUE OFFICER,	)	
INTERNAL REVENUE SERVICE,	)	
	)	
	)	
Plaintiffs,	)	
	)	
v.	)	C.A. NO.
	)	
JOHN MONTGOMERY,	)	
	)	
	)	
Defendant.	)	

ORDER TO SHOW CAUSE

AND NOW, this            day of            , 2012, upon the complaint, the Exhibits attached thereto, including the Declaration of Plaintiff Revenue Officer, Douglas J. Engler of the Internal Revenue Service, and upon the motion of Plaintiffs' attorneys:

IT IS ORDERED that JOHN MONTGOMERY appear before the United States District Court for the Eastern District of Pennsylvania, Courtroom            , U.S. Federal Courthouse, 601 Market Street, Philadelphia, Pennsylvania, on the            day of            2012, at            .m., and show cause why an Order should not be entered enforcing the Internal Revenue Summons served on him on June 7, 2011, by Plaintiff Revenue Officer, Douglas J. Engler of the Internal Revenue Service.

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IT IS FURTHER ORDERED that a copy of this Order, the Complaint and Exhibits be served upon the Defendant by a Revenue Officer of the Internal Revenue Service on or before the        day of        , 2012.

IT IS FURTHER ORDERED that within        days of service of copies of this Order, the Complaint, and Exhibits upon him, the Defendant shall file and serve an answer, motion or other responsive pleading, together with an affidavit in support thereof.

IT IS FURTHER ORDERED that only those issues raised in the pleadings or motions and supported by affidavit(s) will be considered by the Court on the above return date, and any uncontested allegation in the Complaint will be taken as admitted for the purpose of this enforcement proceeding.

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J.

# EXHIBIT

# 1





# Summons

In the matter of JOHN MONTGOMERY

Internal Revenue Service (Division): Small Business / Self Employed

Industry/Area (name or number): Small Business / Self Employed - Area 22

Periods: 2006 THROUGH 2010

## The Commissioner of Internal Revenue

To: JOHN MONTGOMERY

At: 214 WOODWARD DRIVE, EXTON, PA 19341

You are hereby summoned and required to appear before DOUGLAS J. ENGLER, an officer of the Internal Revenue Service, to give testimony and to bring with you and to produce for examination the following books, records, papers, and other data relating to the tax liability or the collection of the tax liability or for the purpose of inquiring into any offense connected with the administration or enforcement of the internal revenue laws concerning the person identified above for the periods shown.

All documents and records in your possession or control reflecting the receipt of taxable income by you for the year(s) 2006 THROUGH 2010, including but not limited to: statement of wages for the year(s) 2006 THROUGH 2010, statements regarding interest or dividend income for the year(s) 2006 THROUGH 2010; employee earnings statements for the year(s) 2006 THROUGH 2010; records of deposits to bank accounts during the year(s) 2006 THROUGH 2010; and any and all other books, records, documents, and receipts regarding wages, salaries, tips, fees, commissions, and any other compensation for services (including gains from dealings in property, interest, rental, royalty and dividend income, alimony, annuities, income life insurance policies and endowment contracts, pensions, income from the discharge of indebtedness, distributive shares of partnership gross income, and income from an estate or trust), so that Federal Income Tax liability for the year(s) 2006 THROUGH 2010 (for which year(s) no return have been made) may be determined.

Do not write in this space

Business address and telephone number of IRS officer before whom you are to appear:

601 S HENDERSON ROAD, KING OF PRUSSIA, PA 19406- - (484)636-0403

Place and time for appearance at 601 S HENDERSON ROAD, KING OF PRUSSIA, PA 19406-



Department of the Treasury  
Internal Revenue Service

www.irs.gov

Form 2039(Rev. 10-2010)  
Catalog Number 21405J

on the 22nd day of June, 2011 at 10:00 o'clock A m.

Issued under authority of the Internal Revenue Code this 6th day of June, 2011

*Douglas J. Engler*  
DOUGLAS J. ENGLER

Signature of Issuing Officer

REVENUE OFFICER

Title

Signature of Approving Officer (if applicable)

Title

Original -- to be kept by IRS



# Service of Summons, Notice and Recordkeeper Certificates

(Pursuant to section 7603, Internal Revenue Code)

I certify that I served the summons shown on the front of this form on:

Date

6/7/2011

Time

11:00 AM

**How  
Summons  
Was  
Served**

1. ☐ I certify that I handed a copy of the summons, which contained the attestation required by § 7603, to the person to whom it was directed.
2. ☒ I certify that I left a copy of the summons, which contained the attestation required by § 7603, at the last and usual place of abode of the person to whom it was directed. I left the copy with the following person (if any): Taxpayers mother
3. ☐ I certify that I sent a copy of the summons, which contained the attestation required by § 7603, by certified or registered mail to the last known address of the person to whom it was directed, that person being a third-party recordkeeper within the meaning of § 7603(b). I sent the summons to the following address: \_\_\_\_\_

Signature

*Douglas J. Engle*

Title

*Revenue Officer*

4. This certificate is made to show compliance with IRC Section 7609. This certificate does not apply to summonses served on any officer or employee of the person to whose liability the summons relates nor to summonses in aid of collection, to determine the identity of a person having a numbered account or similar arrangement, or to determine

whether or not records of the business transactions or affairs of an identified person have been made or kept.

I certify that, within 3 days of serving the summons, I gave notice (Part D of Form 2039) to the person named below on the date and in the manner indicated.

Date of giving Notice: \_\_\_\_\_

Time: \_\_\_\_\_

Name of Noticee: \_\_\_\_\_

Address of Noticee (if mailed): \_\_\_\_\_

**How  
Notice  
Was  
Given**

- |   |  |
|---|--|
| <input type="checkbox"/> I gave notice by certified or registered mail to the last known address of the noticee.                                    | <input type="checkbox"/> I gave notice by handing it to the noticee.   |
| <input type="checkbox"/> I left the notice at the last and usual place of abode of the noticee. I left the copy with the following person (if any). | <input type="checkbox"/> In the absence of a last known address of the noticee, I left the notice with the person summonsed. |
|   | <input type="checkbox"/> No notice is required.  |

Signature

Title

I certify that the period prescribed for beginning a proceeding to quash this summons has expired and that no such proceeding was instituted or that the noticee consents to the examination.

Signature

Title

# EXHIBIT 2

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA, and	)	
DOUGLAS J. ENGLER, Revenue Officer	)	
of the Internal Revenue Service,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil Action No.
	)	
JOHN MONTGOMERY,	)	
	)	
Defendant.	)	

**DECLARATION**

Douglas J. Engler, plaintiff herein, declares:

1. I am a duly commissioned Revenue Officer employed in the Small Business/Self-Employed Division Central Compliance Area of the Internal Revenue Service at 601 S. Henderson Road, King of Prussia, PA 19406.
2. In my capacity as a Revenue Officer, I am conducting an investigation into the determination of the income tax liabilities (Forms 1040) of John Montgomery for the calendar years ended December 31, 2006, December 31, 2007, December 31, 2008, December 31, 2009, and December 31, 2010.
3. In furtherance of the above investigation and in accordance with Section 7602 of Title 26, U.S.C., I issued on June 6, 2011, an administrative summons, Internal Revenue Service Form 2039, to John Montgomery, to give testimony and to produce for examination books, papers, records, or other data as described in said summons. The summons is attached to the complaint as Exhibit 1.

4. In accordance with Section 7603 of Title 26, U.S.C., on June 7, 2011, I served an attested copy of the Internal Revenue Service summons described in Paragraph (3) above on the defendant, John Montgomery, by leaving a copy with the defendant's mother at the defendant's last and usual place of abode, as evidenced in the certificate of service attached to the summons.

5. On June 22, 2011, the defendant, John Montgomery, did not appear in response to the summons. The defendant's refusal to comply with the summons continues to the date of this declaration.

6. The books, papers, records, or other data sought by the summons are not already in the possession of the Internal Revenue Service.

7. All administrative steps required by the Internal Revenue Code for issuance of a summons have been taken.

8. As of the date that the summons was issued and served, and as of the day I signed this declaration, there was no Department of Justice referral, as defined by 26 U.S.C. §7602(d)(2), with respect to John Montgomery.

9. It is necessary to examine the books, papers, records or other data sought by the summons in order to properly determine the income tax liabilities (Forms 1040) of John Montgomery for the calendar years ended December 31, 2006, December 31, 2007, December 31, 2008, December 31, 2009, and December 31, 2010. This investigation is being conducted for a legitimate purpose and the information may be relevant for that purpose.



I declare under penalty of perjury that the foregoing is true and correct.

Executed this 01st day of July, 2012.

  
\_\_\_\_\_  
Douglas J. Engler  
Revenue Officer